

ESTTA Tracking number: **ESTTA483447**Filing date: **07/16/2012**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company
Granted to Date of previous extension	07/15/2012
Address	7000 Coliseum Way Second Floor Oakland, CA 94621 UNITED STATES
Correspondence information	Scott P. Ceresia Cowan, Liebowitz & Latman, P.C. 1133 Avenue of the Americas New York, NY 10036 UNITED STATES spc@cll.com, jmn@cll.com, trademark@cll.com Phone:212-790-9200

Applicant Information

Application No	85411190	Publication date	01/17/2012
Opposition Filing Date	07/16/2012	Opposition Period Ends	07/15/2012
Applicant	3P Learning Pty Limited Level 18, 124 Walker Street North Sydney, NSW2060 AUSTRALIA		

Goods/Services Affected by Opposition

Class 041. First Use: 2008/01/31 First Use In Commerce: 2008/01/31

All goods and services in the class are opposed, namely: Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of mathematics via a world wide web website; educational services, namely, providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and for home schooling; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in connection therewith; arranging of contests in the field of math; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade

Grounds for Opposition

Other	See attached pleading.
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Related Proceedings	Opp. No. 91197518
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Attachments	Mathletics and Design - NOO.pdf (7 pages)(102454 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Scott P. Ceresia/
Name	Scott P. Ceresia
Date	07/16/2012



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July 16, 2012

By Electronic Filing

Commissioner for Trademarks
Attn: TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

Re: Athletics Investment Group LLC d/b/a The Oakland Athletics
Baseball Company's
Notice of Opposition against
3P Learning Pty Limited's
Application to Register MATHLETICS and Design
Ref. No. 21307.034

Dear Commissioner:

We enclose a Notice of Opposition against Application Serial Number 85/411,190 published in the Official Gazette on January 17, 2012. Contemporaneously with the electronic filing of this Notice of Opposition, we are arranging for an electronic payment in the amount of \$300 to cover the filing fee.

If the amount received is insufficient and additional fees are required, please charge our Deposit Account No. 03-3415.

Please address all future correspondence to the attention of Mary L. Kevlin, Esq. of Cowan, Liebowitz & Latman, P.C.

Respectfully submitted,

/Scott P. Ceresia/
Scott P. Ceresia

Enclosure

cc: Mary L. Kevlin, Esq. (w/encs.)
Diane Kovach (w/encs.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/411,190
Filed: August 30, 2011
For Marks: MATHLETICS and Design
Published in the Official Gazette: January 17, 2012

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ATHLETICS INVESTMENT GROUP LLC D/B/A	:
THE OAKLAND ATHLETICS BASEBALL	:
COMPANY,	:
	:
Opposer,	:
	:
v.	:
	:
3P LEARNING PTY LIMITED,	:
Applicant.	:
-----X	

Opposition No.

NOTICE OF OPPOSITION

Commissioner for Trademarks
Attn: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Athletics Investment Group LLC d/b/a The Oakland Athletics Baseball Company ("Opposer"), a California limited liability company with offices at 7000 Coliseum Way, Second Floor, Oakland, California 94621, believes that it will be damaged by registration



of the mark MATHLETICS and Design as shown here:

("Applicant's Mark") in International Class 41 for "Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of mathematics via a world wide web website; educational services, namely,

providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and for home schooling; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in connection therewith; arranging of contests in the field of math; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade” as shown in Application Serial No. 85/411,190 (the “Application”), and having been granted extensions of time to oppose the Application up to and including July 15, 2012, hereby opposes the same.

As grounds for opposition, it is alleged that:

1. Opposer is the owner of the renowned OAKLAND ATHLETICS MAJOR LEAGUE BASEBALL club.
2. Since long prior to January 31, 2008, Applicant’s claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have used the names and/or marks ATHLETICS and MATHLETICS, alone or with other word, letter and/or design elements (the “Opposer’s ATHLETICS Marks”), in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, educational services, namely, educational programs in the field of mathematics; printed workbooks for educational programs in the field of mathematics; apparel; toys and sporting goods.

3. Opposer owns United States federal registrations for Opposer's ATHLETICS Marks in International Classes 6, 9, 14, 16, 18, 20, 21, 24, 25, 28 and 41; namely, Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396; 2,630,348; 2,759,932; 3,349,789; 3,538,727; 3,633,242 and 3,633,243. Registration Nos. 1,263,825; 1,267,687; 1,530,675; 1,530,851; 1,560,962; 2,573,396 and 2,630,348 are incontestable.

4. Since long prior to January 31, 2008, Applicant's claimed first use date, Opposer, its predecessors, and their affiliated and related entities, licensees and/or sponsors have promoted and advertised the sale and distribution of goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, without limitation, MATHLETICS, in connection with baseball games and exhibition services and a wide variety of goods and services, including, but not limited to, educational services, namely, educational programs in the field of mathematics; printed workbooks for educational programs in the field of mathematics; apparel; toys and sporting goods, and has offered such goods and rendered such services in commerce.

5. As a result of the sales and promotion of its goods and services bearing or offered in connection with Opposer's ATHLETICS Marks, including, without limitation, MATHLETICS, Opposer has built up highly valuable goodwill in Opposer's ATHLETICS Marks, and said goodwill has become closely and uniquely identified and associated with Opposer.

6. On August 30, 2011, Applicant filed the Application for Applicant's Mark, Serial No. 85/411,190, in International Class 41 for "Entertainment and educational services in the nature of on-line real-time international math competitions where pre-kindergarten thru twelfth grade students can race against each other and against other children around the world in completing math problems; providing educational information and practice problems in the academic field of

mathematics via a world wide web website; educational services, namely, providing online programs of instruction in the field of math for use as core math learning programs or supplemental math learning programs in schools and for home schooling; educational services, namely, providing academic enrichment programs in the field of math; educational services, namely, conducting online math courses for educators and students, and distribution of training material and course material in connection therewith; arranging of contests in the field of math; providing recognition and incentives by the way of awards and contests to demonstrate excellence in the field of math; educational services, namely, providing online courses of instruction in the field of math for pre-kindergarten thru twelfth grade,” claiming a first use date of January 31, 2008.

7. Upon information and belief, Applicant did not use Applicant’s Mark for the services covered in the Application in United States commerce prior to its claimed first use date of January 31, 2008.

8. The services covered by the Application are identical and/or closely related to the goods offered and services rendered in connection with Opposer’s ATHLETICS Marks, and, in particular, Opposer’s MATHLETICS mark.

9. Applicant’s Mark so resembles Opposer’s ATHLETICS Marks, and is identical to Opposer’s MATHLETICS mark, as to be likely, when used in connection with Applicant’s services, to cause confusion, to cause mistake, and to deceive the trade and public, who are likely to believe that Applicant’s services have their origin with Opposer and/or that such services are approved, endorsed or sponsored by Opposer or associated in some way with Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant’s Mark.

WHEREFORE, Opposer believes that it will be damaged by registration of Applicant's Mark and requests that the opposition be sustained and said registration be denied.

Please recognize as attorneys for Opposer in this proceeding Mary L. Kevlin, Richard S. Mandel and Scott P. Ceresia (members of the bar of the State of New York) and the firm Cowan, Liebowitz & Latman, P.C., 1133 Avenue of the Americas, New York, New York 10036.

Please address all communications to Mary L. Kevlin, Esq. at the address listed below.

Dated: New York, New York
July 16, 2012

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Opposer

By: /Scott P. Ceresia /

Mary L. Kevlin
Richard S. Mandel
Scott P. Ceresia
1133 Avenue of the Americas
New York, New York 10036
(212)790-9200

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 16, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's attorney of record and correspondent, Barry F. Soalt, Esq., Procopio Cory Hargreaves & Savitch LLP, 525 B Street, Suite 2200, San Diego, CA 92101.

/ Scott P. Ceresia/

Scott P. Ceresia